



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/574,622

04/05/2006

Toru Ishii

M10711970

5700

32172

7590

09/25/2007

DICKSTEIN SHAPIRO LLP

1177 AVENUE OF THE AMERICAS (6TH AVENUE)

NEW YORK, NY 10036-2714

EXAMINER

COSIMANO, EDWARD R

ART UNIT

PAPER NUMBER

2863

MAIL DATE

DELIVERY MODE

09/25/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Interview Summary	Application No. 10/574,622	Applicant(s) ISHII ET AL.	
	Examiner Edward R. Cosimano	Art Unit 2863	

All participants (applicant, applicant's representative, PTO personnel):

(1) Edward R. Cosimano. (3)_____.

(2) Representative LaCava. (4)_____.

Date of Interview: 19 September 2007.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☐ No.
If Yes, brief description: _____.

Claim(s) discussed: 1-5.

Identification of prior art discussed: none.

Agreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See attached.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

SUBSTANCE OF INTERVIEW

1. On 19 September 2007 Representative LaCava contacted the examiner in order to request clarification of the examiner's objection to the written description and the rejections of claims 1-5 under 35 U.S.C. 112 2nd paragraph and under 35 U.S.C. 101 as set forth in the Office action mailed on 20 August 2007.

1.1 In regard to the objection to the written description, because the written description does not contain the statement "We claim:". The examiner pointed out that the examiner is not requiring that applicant only use the phrase "We claim:" but that applicant insert language such as "We claim" or "What is claimed" or "The claimed invention is" or some other suitable language that conveys this concept as required by Office policy. The examiner further noted that where at this time applicant may choose the language that to be used in order to set forth this concept, MPEP 608.01(m) requires that the examiner to insert this or similar language at the time of allowance if the language is not present in the instant application. Such an examiner's amendment would provide applicant with little choice in regard to the language that expresses this concept in the Patent that matures from the instant application.

1.2 In regard to the rejection of claims 1-5 under 35 U.S.C. 112 2nd paragraph. Applicant argued that the claimed invention, in claim 1 for example, merely sets forth an invention in which:

A) a first one of the "plurality of network devices" performs the functions of measuring and outputting of measurement data/information;

B) a second one of the "plurality of network devices" perform the functions of detecting, measuring and outputting of measurement data/information based on the measurement timing of first one of the "plurality of network devices"; and

C) there may be other devices that are connected to the bus but that do not perform any of these functions of the first one of the "plurality of network devices" or the second one of the "plurality of network devices".

Whereas the examiner's rejection appears to require that there is a third one of the "plurality of network devices" that performs the functions of the second one of the "plurality of network devices". In view of the fact that the claimed invention does not require that there be a third one

of the “plurality of network devices” that provides the functions of the second one of the “plurality of network devices”, then the claimed invention is clear and operative as claimed.

1.2.1 Although the examiner admitted that the language used in the claims would cover the invention described by applicant, the examiner argued that the claimed invention is not so limited because applicant’s has used of the phrase “at least” in reference to the first one of the “plurality of network devices” and the second one of the “plurality of network devices”. By using this phrase applicant has permitted the claimed invention to be reasonably interpreted as not being limited to including the use of only one second one of the “plurality of network devices”, and hence the claimed invention is broad enough in scope to cover an invention that would include the use of more than one device that provides the functions of the second one of the “plurality of network devices”. The examiner then pointed out that in any embodiment of the claimed invention in which there is more than one of the “plurality of network devices” that functions as the second one of the “plurality of network devices”, then the claimed invention lacks any structure or action that would prevent a bus use conflict by the two or more of the “plurality of network devices” that provide the functions of the second one of the “plurality of network devices”.

1.2.2 After some discussion regarding the support found in the written description for how the claimed invention would operate in order to deal with the bus conflict problem identified by the examiner in this rejection, it was agreed that the claimed invention would be amended to include the concepts of:

A) that there is only a first one of the “plurality of network devices” performs the functions of measuring and outputting of measurement data/information and that there is only one second one of the “plurality of network devices” that functions to perform the functions of detecting, measuring and outputting of measurement data/information based on the measurement timing of first one of the “plurality of network devices”; and/or

B) using a bus conflict resolution structure/action, such as the disclosed “waiting for an idle bus”, in any embodiment of the claimed invention in which there is only one first one of the “plurality of network devices” that functions to perform the functions of measuring and outputting of measurement data/information and in which there would be more than one second one of the “plurality of network devices” that functions to perform

the functions of detecting, measuring and outputting of measurement data/information based on the measurement timing of first one of the "plurality of network devices".

1.2.3 Where the final language that applicant will use in the claimed invention in order to express these concepts is at applicant's discretion.

1.3 In regard to the rejection of claims 1-5 under 35 U.S.C. 101. The examiner noted that either of the above amendments would remove this rejection.

1.4 The rejection of claims in view of the prior art was not discussed and hence will be addressed in a forma response.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward R. Cosimano whose telephone number is 571-272-0571. The examiner can normally be reached on 571-272-0571 from 7:30am to 4:00pm (Eastern time).

2.1 If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow, can be reached on 571-272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

2.2 Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ERC
09/19/2007



Edward Cosimano
Primary Examiner

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.